



This document is scheduled to be published in the Federal Register on 05/17/2012 and available online at <http://federalregister.gov/a/2012-11945>, and on [FDsys.gov](http://FDsys.gov)

## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 571**

#### **Docket No. NHTSA-2012-0058**

#### **RIN 2127-AL07**

### **Federal Motor Vehicle Safety Standards; Occupant Crash Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule; technical amendments.

**SUMMARY:** This final rule makes technical amendments to Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection. Specifically, this document updates references to the Pipeline and Hazardous Materials Safety Administration (PHMSA) (formerly the Research and Special Programs Administration) regulations that are included in the requirements for pressure vessels and explosive devices used in occupant crash protection systems, such as air bags. As a result of various rulemakings that reorganized the relevant regulations, the references contained in FMVSS No. 208 are out of date. This final rule updates the references to the PHMSA regulations.

This document also makes a correction to the air bag warning label requirements for vehicle dashboards and steering wheel hubs to make clear that the general warning label requirements for vehicles with air bags are superseded by different, specific requirements if the vehicle is certified to meet certain advanced air bag requirements. As written now, the general

warning label requirements contain an explicit exception for the warning label requirements for vehicles certified to meet these advanced air bag requirements before December 1, 2003, but do not reference the warning label requirements for vehicles certified to meet these requirements on or after December 1, 2003.

This document does not make any substantive changes to the requirements specified in FMVSS No. 208.

**DATES:** This rule is effective **[INSERT DATE 30 DAYS AFTER DATE PUBLISHED IN FEDERAL REGISTER]**

Petitions for reconsideration must be received by **[PLEASE INSERT DATE THAT IS 45 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Petitions for reconsideration must be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Mr. William H. Shakely, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366-2992.

**SUPPLEMENTARY INFORMATION:**

**I. Discussion**

FMVSS No. 208 (49 CFR 571.208) specifies requirements for the protection of vehicle occupants in crashes and includes equipment requirements for restraint systems. This document makes technical amendments to several of the provisions within this standard, specifically the requirements for pressure vessels and explosive devices, which are located at S9.1 and S9.2, and the air bag warning label requirements, which are located at S4.5.1.

S9.1 and S9.2 were promulgated in 1972 with the purpose of regulating occupant crash protection systems, such as air bags, that contain explosive materials or pressure vessels by imposing directly on manufacturers the obligation to conform to Federal hazardous materials regulations.<sup>1</sup> S9.1 specifies that pressure vessels shall conform to certain requirements for Specification 39 non-reusable (non-refillable) cylinders found at 49 CFR 178.65. S9.2 specifies requirements for explosive devices and, in particular, requires that such devices not exhibit any of the characteristics prohibited by the Federal regulation listing forbidden explosives, which, at the time S9.2 was adopted, was found at 49 CFR 173.51.

Since S9.1 and S9.2 were adopted, the hazardous materials regulations referenced in these paragraphs have been reorganized and, in some cases, relocated. On December 21, 1990, the regulation listing forbidden explosives (49 CFR 173.51) was redesignated as 49 CFR 173.54.<sup>2</sup> On May 23, 1996, the pressure vessel requirements in 49 CFR § 178.65 were reorganized,<sup>3</sup> and on August 8, 2002, a subreferenced provision concerning pressure relief devices (49 CFR 173.34(d)) was moved into 49 CFR 173.301.<sup>4</sup>

As a result of these reorganizations, the references in FMVSS No. 208 are no longer accurate. This notice updates the references contained in S9.1 and S9.2 of this standard. It does not make any substantive changes to the requirements specified therein. In particular, we note that when the hazardous materials regulations referenced in S9.1 and S9.2 were reorganized or redesignated, minor textual changes were made to those referenced sections. However, these

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<sup>1</sup> 37 FR 9222 (May 6, 1972).

<sup>2</sup> *Final Rule; Performance-Oriented Packaging Standards; Changes to Classification, Hazard Communication, Packaging and Handling Requirements Based on UN Standards and Agency Initiative*, 55 FR 52402 (Dec. 21, 1990).

<sup>3</sup> *Final Rule; Restructuring of Cylinder Specifications Requirements*, 61 FR 25940 (May 23, 1996).

<sup>4</sup> *Final Rule; Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders*, 67 FR 51626 (Aug. 8, 2002). 49 CFR 173.301 includes additional requirements beyond those for pressure relief devices. Accordingly, the regulatory text of S9.1 has been amended in this final rule so that only the pressure relief device requirements of that section are referenced.

textual changes did not result in any substantive changes. Accordingly, the substantive requirements of S9.1 and S9.2 remain the same.

The need to correct the references in S9.1 of FMVSS No. 208 was the subject of a petition for rulemaking submitted by the North American Automotive Hazardous Material Action Committee on October 7, 2004. That organization specifically petitioned NHTSA to update paragraph S9.1 of FMVSS No. 208. This document grants that petition. We had also previously been contacted by a representative of Takata Corporation concerning this matter.

In addition to updating the references in S9.1 and S9.2, this final rule makes a technical amendment to S4.5.1(e) of FMVSS No. 208, which specifies requirements for air bag warning labels on vehicle dashboards and steering wheel hubs. S4.5.1(e)(1) specifies label requirements for all vehicles equipped with air bags except as provided in S4.5.1(e)(2). S4.5.1(e)(2) specifies label requirements for vehicles certified to meet certain advanced air bag requirements before December 1, 2003. S4.5.1(e) contains a third set of label requirements in S4.5.1(e)(3), which specifies the label requirements for vehicles certified to meet the specified advanced air bag requirements on or after December 1, 2003. However, the text of S4.5.1(e)(1) does not include an exception for S4.5.1(e)(3).

On January 25, 2005, we received a request for interpretation from Toyota Motor North America, Inc. (Toyota) concerning S4.5.1(e).<sup>5</sup> Toyota's concern was that S4.5.1(e)(1) makes an exception for S4.5.1(e)(2) but not for S4.5.1(e)(3). Arguably, as written, both S4.5.1(e)(1) and S4.5.1(e)(3) would apply to vehicles certified to meet certain advanced air bag requirements on or after December 1, 2003. Toyota indicated its belief that it was not NHTSA's intention to require vehicles to have both labels, which are very similar.

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<sup>5</sup> Docket No. NHTSA-2005-20694-0002.

We responded to Toyota's request for interpretation on March 14, 2005.<sup>6</sup> We confirmed Toyota's understanding and agreed that it was not the agency's intention to require vehicles to have both types of labels. We indicated that the agency intended for the labeling requirements in S4.5.1(e)(2) and S4.5.1(e)(3) to supersede the labeling requirement in S4.5.1(e)(1) for vehicles certified to meet certain advanced air bag requirements and stated that the exception identified in S4.5.1(e)(1) should include both S4.5.1(e)(2) and S4.5.1(e)(3). This amendment adds S4.5.1(e)(3) as an exception to the requirements of S4.5.1(e)(1), consistent with our letter of interpretation to Toyota. This is a technical correction and does not change any of the substantive labeling requirements.

## **II. Rulemaking Analyses and Notices**

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) provides that when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment (5 U.S.C. 553(b)(B)). NHTSA has determined that there is good cause for making these technical amendments final without notice and an opportunity for public comment. These technical amendments update the cross-references to Federal hazardous materials regulations in paragraphs S9.1 and S9.2 of FMVSS No. 208 and correct the language in paragraph S4.5.1(e) of that standard. The amendments do not alter the substance of the amended sections nor do they alter the requirements of FMVSS No. 208. Accordingly, notice and public comment are unnecessary. For the same reasons, NHTSA has determined that there is good cause for these amendments to go into effect 30 days after publication in the Federal Register.

The agency has discussed the relevant requirements of Executive Order 12866, Executive Order 13563, DOT Regulatory Policies and Procedures, the National Environmental Policy Act,

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<sup>6</sup> Docket No. NHTSA-2005-20694-0001.

the Regulatory Flexibility Act, Executive Order 13132 (Federalism), Executive Order 12988 (Civil Justice Reform), the Unfunded Mandates Reform Act, the Paperwork Reduction Act, Executive Order 13045 (Protection of Children from Environmental Health and Safety Risks), the National Technology Transfer and Advancement Act, and Executive Order 13211 (Energy Effects), as applicable, in the underlying substantive rules establishing and amending the affected sections of FMVSS No. 208. Those discussions are not affected by these amendments.

#### Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.regulations.gov>.

#### **List of Subjects in 49 CFR Part 571**

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

For the reasons stated in the preamble, the National Highway Traffic Safety Administration, Department of Transportation, amends 49 CFR part 571 as follows:

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 USC 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising the first sentence of S4.5.1(e)(1), S9.1, and the first sentence of S9.2 to read as follows:

### § 571.208 Standard No. 208; Occupant crash protection.

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#### S4.5.1 Labeling and owner's manual information.

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(e) Label on the dashboard. (1) Except as provided in S4.5.1(e)(2) or S4.5.1(e)(3), each vehicle that is equipped with an inflatable restraint for the passenger position shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible from all front seating positions. \* \* \*

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S9.1 Pressure vessels. A pressure vessel that is continuously pressurized shall conform to the requirements of §§ 178.65(a), 178.65(c)(2), 178.65(d), 178.65(e)(1), and 178.65(e)(2) of this title; and to the pressure relief device requirements of §§ 173.301(a)(2), 173.301(a)(3) and 173.301(f) of this title. It shall not leak or evidence visible distortion when tested in accordance with § 178.65(f)(1) of this title and shall not fail in any of the ways enumerated in § 178.65(f)(2) of this title when hydrostatically tested to destruction. It shall not crack when flattened in accordance with § 178.65(g) of this title to the limit specified in § 178.65(g)(4) of this title.

S9.2 Explosive devices. An explosive device shall not exhibit any of the characteristics prohibited by § 173.54 of this title. \* \* \*

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Issued: May 10, 2012

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Christopher J. Bonanti  
Associate Administrator  
for Rulemaking

Billing Code: 4910-59-P